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SIXTEENTH REPORT OF THE EXECUTIVE SECRETARY PURSUANT TO ARTICLE 41 OF THE PROVISIONAL RULES FOR CLAIMS PROCEDURE

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Introduction

1. The present report identifies, pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules"), recommended corrections in the various claims categories since the fifteenth article 41 report (S/AC.26/2001/24). Chapter I of this report contains recommended corrections concerning claims in categories "A" and "C", where the panels of Commissioners have concluded their work. Chapter II of this report provides information concerning requests by claimants for corrections to approved awards under article 41 of the Rules, including a report of the secretariat's review to determine whether or not these requests warrant action under article 41.

I. RECOMMENDED CORRECTIONS CONCERNING CLAIMS IN CATEGORIES "A" AND "C"

A. Category "A" corrections

2. Recommendations for corrections to category "A" claims include the following kinds of corrections: duplicate claims; reinstatement of claims previously identified as duplicates; higher to lower amounts; individual to family; and changes to the submitting/responsible entity.

1. Duplicate claims

3. Since the fifteenth article 41 report, a total of two claims have been found to be duplicates of other claims awarded compensation in category "A". No compensation should have been awarded for these duplicate claims.

4. Accordingly, as set forth in table 1 below, it is recommended that the awards for these claims be corrected. Table 1 identifies the countries concerned, the instalments to be adjusted, the number of claims affected, and the amounts of the net effect of the adjustment.

Table 1. Category "A" corrections: duplicate claims

Country	Instalment	Number of claims affected	Amount of net effect (USD)
India	Fourth	1	(2,500.00)
Sri Lanka	Fifth	1	(4,000.00)
Total		2	(6,500.00)

2. Reinstatement of claims previously identified as duplicates

5. Forty-five claims from China erroneously found to be duplicates should be reinstated since additional information received from the Government of China shows that the claims relate to different individuals and are not in fact duplicates. One claim from Australia and another claim from Pakistan, which were originally identified as duplicates, should also be reinstated for the same reason.

6. Accordingly, as set forth in table 2 below, it is recommended that the awards for these claims be corrected. Table 2 identifies the countries concerned, the instalment to be adjusted, the number of claims affected, and the amounts of the net effect of the adjustment.

Table 2. Category "A" corrections: reinstatement of claims previously identified as duplicates

Country	Instalment	Number of claims affected	Amount of net effect (USD)
Australia	Sixth	1	2,500.00
China	Sixth	45	180,000.00
Pakistan	Sixth	1	4,000.00
Total		47	186,500.00

3. Higher to lower amount

7. Decision 21 (S/AC.26/Dec.21 (1994)) of the Governing Council states that "any claimant who has selected a higher amount under category 'A' (USD 4,000 or USD 8,000) and has also filed a category 'B', 'C' or 'D' claim will be deemed to have selected the corresponding lower amount under category 'A'". Twenty two claims have been identified by the Government of Pakistan as having been filed for higher amounts in category "A" by claimants who also have claims in category "C". The awards for these claims should be reduced to awards appropriate to the proper status of the claims.

8. Accordingly, as set forth in table 3 below, it is recommended that the award amounts for the claims be corrected. Table 3 identifies the country concerned, the instalments to be adjusted, the number of claims affected, and the amounts of the net effect of the adjustment.

Table 3. Category "A" corrections: higher to lower amount

Country	Instalment	Number of claims affected	Amount of net effect (USD)
Pakistan	First	1	(1,500.00)
	Second	1	(1,500.00)
	Sixth	1	(1,500.00)
	Special report (Pakistan)	19	(36,000.00)
Total		22	(40,500.00)

4. Individual to family

9. One claim from Belgium, due to the information relating to family members being mistakenly not entered in the computer disk submitted to the Commission, resulted in a reduction of the award. The award for this claim should be increased to an amount appropriate to the proper status of the claim.

10. Accordingly, as set forth in table 4 below, it is recommended that the award amount for this claim be corrected. Table 4 identifies the country concerned, the instalment to be adjusted, the number of claims affected, and the amount of net effect of the adjustment.

Table 4. Category "A" corrections: individual to family

Country	Instalment	Number of claims affected	Amount of net effect (USD)
Belgium	Two	1	2,500.00
Total		1	2,500.00

5. Change of submitting/responsible entity

11. At the request of the claimant and with the agreement of the Governments concerned, one claim submitted by the Philippines and approved in the sixth instalment should be transferred to Norway.

12. Accordingly, as set forth in table 5 below, it is recommended that this claim be transferred from the Philippines to Norway. Table 5 identifies the countries concerned, the instalment to be adjusted, the number of claims affected, and the amounts of the net effect of the adjustment.

Table 5. Category "A" corrections: change in submitting/responsible entity corrections

Country	Instalment	Number of claims affected	Amount of net effect (USD)
Norway	Sixth	1	5,000.00
Philippines	Sixth	1	(5,000.00)

6. Summary

13. The recommended corrections in category "A", excluding corrections arising from changes to submitting/responsible entity, concern 72 claims submitted by six Governments resulting in a net increase in the total amount awarded of USD 142,000. Of these claims, the total amount awarded for 48 claims was increased by USD 189,000, and the total amount awarded for 24 claims was decreased by USD 47,000. The recommendations for the first, second, fourth, fifth, sixth and Special (Pakistan) instalments, by country and instalment, are located in tables 1 to 7 of annex I to this report.

B. Category "C" corrections

14. Recommendations for corrections to category "C" claims include the following kinds of corrections: corrections arising from discrepancies between the electronic and paper claims, duplicate claims, and change of submitting/responsible entity.

1. Corrections arising from discrepancies between the electronic and paper claims

15. Miscellaneous recommendations for corrections to category "C" claims include a request submitted by the Government of the Philippines for review of category "C" claims submitted by 384 Philippine claimants. Using information based only on claimant names as provided by the Philippines, all but 63 of the individuals listed were found in the Commission's database.

16. For all individuals whose category "C" claims were found in the database, the electronic information existing in the database was compared to the paper claims submitted by these individuals. This comparison and review determined that data were missing or erroneously stated in 32 claims so as to affect the outcomes adversely. It is therefore recommended that these 32 claims be corrected accordingly.

17. For the most part, the recommendations for correction in the Philippine claims relate to awarding compensation to claims for mental pain and anguish arising from forced hiding (C1-MPA for forced hiding) that had previously been rejected. The entries in the electronic claims indicated that the claimants had been resident in Saudi Arabia during the relevant period. Pursuant to Governing Council decision 3, all references to detention and hiding are understood to mean detention and hiding within Iraq or Kuwait. However, the review ascertained that where claimants who requested compensation for C1-MPA for forced hiding had also indicated that their sponsors had addresses in Kuwait, the claimants had, in fact, been physically present in Kuwait at the time of Iraq's invasion. In the situations for which corrections are recommended, the claimants had fled to Saudi Arabia with their Kuwaiti employers shortly after 2 August 1990. The fact of their physical presence in Kuwait during the relevant period and the circumstances of their departure from Kuwait rendered them eligible for small amounts of compensation.

18. In addition to the request for review from the Philippines, the secretariat continued to review substantive queries and requests for corrections submitted by other Governments. During the period from March to October 2001, the Commission reviewed approximately 134 additional claims pursuant to requests for corrections. From those reviews, corrections are recommended in respect of 17 additional category "C" claims. All recommendations apply the "C" Panel's methodologies relative to the respective losses and consider only the timely filed information in the Commission's paper claim files.

19. Along with recommendations for correction of losses related to C1-MPA for forced hiding as described in the review of claims submitted by the Philippines, the individual loss elements that most commonly receive recommendations for correction in this report are composed of income-related losses arising principally from employment ("C6-Salary") losses, but also from individual business ("C8-Business") losses. Discrepancies between the electronic and paper claims include omission of losses from the electronic claim or inaccurate entry of amounts or currencies that adversely affected the outcomes for the claimants. Summaries of the "C" Panel's approved recommendations relevant to losses for which correction is recommended are found in the seventh instalment report, (S/AC.26/1999/11), as follows: (a) paragraphs 105 to 112 for C1-MPA for forced hiding, (b) paragraphs 249 to 282 for C6-Salary losses, and (c) paragraphs 327 to 368 for C8-Business losses.

20. Accordingly, as set forth in table 6 below, it is recommended that the award amounts for 49 claims be corrected. Table 6 identifies the countries or international organizations concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment.

Table 6. Category "C" corrections arising from discrepancy between electronic and paper formats

Country or international organization	Instalment	Number of claims affected	Amount of net effect (USD)
Croatia	Sixth	1	12,872.86
Egypt	Sixth	1	22,534.36
India	Second	1	10,931.70
Jordan	Seventh	1	7,266.44
Kuwait	Fourth	1	88,754.33
	Seventh	1	8,567.81
Lebanon	Second	2	39,013.84
Netherlands	Seventh	1	8,958.10
Pakistan	Sixth	1	44,260.05
	Seventh	1	47,423.40
Philippines	Fifth	1	339.51
	Sixth	21	52,990.08
	Seventh	10	34,147.21
Poland	Seventh	1	18,000.00
United Kingdom	Fourth	1	5,000.00
UNDP Washington	Seventh	2	30,621.49
UNHCR Geneva	Second	1	14,723.00
UNRWA Gaza	Seventh	1	14,188.58
Total		49	460,592.76

2. Duplicate claims

21. One claim reported in the sixth instalment was notified to the Commission by the Government of India as a potential duplicate. A review confirmed that the claim was indeed a duplicate of another claim that was also approved in the sixth instalment and, accordingly, the rejected duplicate claim should be decreased to zero in accordance with the "C" Panel's methodologies. The selection of the valid claim was determined in accordance with the Report and recommendations of the panel of

Commissioners concerning the seventh instalment of individual claims for damages up to USD 100,000 ("category "C" claims) (S/AC.26/1999/11), as set out at paragraphs 58 and 59.

22. Accordingly, as set forth in table 7 below, it is recommended that the award amount be corrected. Table 7 identifies the country concerned, the instalment to be adjusted, the number of claims affected, and the amount of net effect of the adjustment.

Table 7. Category "C" correction of duplicate claims

Country	Instalment	Number of claims affected	Amount of net effect (USD)
India	Sixth	1	(7,430.05)
Total		1	(7,430.05)

3. Corrections arising from requests for change of submitting/responsible entity

23. At the requests of the claimants and with the agreement of the submitting entities concerned, two claims submitted by the Arab Republic of Egypt and approved in the third and fourth instalments, respectively, should be transferred to UNRWA Gaza.

24. At the request of the claimant and with the agreement of the governments concerned, one claim, submitted by India and approved in the sixth instalment, should be transferred to Kuwait. Another claim, at the request of the claimant and with the agreement of the governments concerned, which was submitted by the Philippines and approved in the seventh instalment, should be transferred to Norway.

25. Accordingly, as set forth in table 8 below, it is recommended that two claims be transferred from the Arab Republic of Egypt to UNRWA Gaza, one claim transferred from India to Kuwait and one claim transferred from the Philippines to Norway. Table 8 identifies the countries or international organization concerned, the instalments to be adjusted, the number of claims affected, and the amounts of the net effect of the adjustment.

Table 8. Category "C" corrections arising from requests for change of submitting/responsible entity

Country or international organization	Instalment	Number of claims affected	Amount of net effect (USD)
Egypt	Third	1	(23,405.64)
UNRWA Gaza	Third	1	23,405.64
Egypt	Fourth	1	(29,752.28)
UNRWA Gaza	Fourth	1	29,752.28
India	Sixth	1	(1,700.00)
Kuwait	Sixth	1	1,700.00
Philippines	Seventh	1	(28,251.41)

Country or international organization	Instalment	Number of claims affected	Amount of net effect (USD)
Norway	Seventh	1	28,251.41

4. Summary

26. The recommended corrections in category "C", excluding corrections arising from changes to submitting/responsible entity, concern 50 claims submitted by 11 Governments and three international organisations with a net increase of the total amount awarded of USD 453,162.71. Of these claims, the total amount awarded for 49 claims was increased by USD 460,592.76, and the total amount awarded for one claim was decreased by USD 7,430.05. The recommended corrections concerning claims in category "C" for the second, third, fourth, fifth, sixth and seventh instalments by country or international organization, and by instalment, are located in tables 1 to 7 of annex II to this report.

II. REQUESTS BY CLAIMANTS FOR ARTICLE 41 CORRECTIONS

27. During the period under review, the secretariat has continued its review of requests for corrections submitted under article 41 of the Rules. The requests are outlined below:

(a) In the fourteenth article 41 report (S/AC.26/2001/17), considered by the Governing Council at its thirty ninth session, mention was made of a request from the Permanent Mission of the Kingdom of Morocco in Geneva for reconsideration of Governing Council decision 105 (S/AC.26/Dec.105 (2000)) and the associated report and recommendations of the panel of Commissioners concerning the fourteenth instalment of "E3" claims (S/AC.26/2000/19) with regard to a Moroccan company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 105 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question.

(b) On 27 August 2001, the Permanent Mission of the Islamic Republic of Iran requested reconsideration of Governing Council decision 132 (S/AC.26/Dec.132 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the first instalment of "F4" claims (S/AC.26/2001/16) with regard to one claim. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 132 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question.

(c) During the period under review, the Kuwaiti Public Authority for the Assessment of Compensation for Damages Resulting from Iraqi Aggression ("PAAC") forwarded to the secretariat requests for clarification and reconsideration of Governing Council decisions 77 (S/AC.26/Dec.77 (1999)), 78 (S/AC.26/Dec.78 (1999)), 91 (S/AC.26/Dec.91 (2000)), 93 (S/AC.26/Dec.93 (2000)), 94 (S/AC.26/Dec.94 (2000)), 107 (S/AC.26/Dec.107 (2000)), 108 (S/AC.26/Dec.108 (2000)), and 119 (S/AC.26/Dec.119 (2001)) and the associated reports and recommendations of the panel of Commissioners concerning the second (S/AC.26/1999/17), fourth (S/AC.26/1999/18), third

(S/AC.26/2000/6), sixth (S/AC.26/2000/8), seventh (S/AC.26/2000/9), tenth (S/AC.26/2000/22) and thirteenth (S/AC.26/2001/5) instalments of "E4" claims, respectively, with regard to twelve Kuwaiti corporate claimants. The responses of the Executive Secretary to the requests filed by PAAC have not yet been conveyed to the claimant country due to the fact that the secretariat's review of the specific claims in question and, as appropriate, consultations with the respective panel of Commissioners, remain ongoing. Details concerning these requests, and the Executive Secretary's recommendations to the Governing Council with respect thereto, will be contained in the Executive Secretary's subsequent article 41 reports to the Governing Council.

(d) On 5 October 2001, the Permanent Mission of India in Geneva requested reconsideration of Governing Council decision 128 (S/AC.26/Dec.128 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the thirteenth instalment of "E3" claims (S/AC.26/2001/12) with regard to one Indian company. The response of the Executive Secretary to the request filed by the Government of India has not yet been conveyed to the claimant country due to the fact that the secretariat's review of the specific claim in question and, where appropriate, consultations with the respective panel of Commissioners, remain ongoing. Details concerning this request, and the Executive Secretary's recommendations to the Governing Council with respect thereto, will be contained in the Executive Secretary's upcoming article 41 reports to the Governing Council.

(e) On 12 October 2001, the Permanent Mission of the Republic of Turkey in Geneva requested reconsideration of Governing Council decision 128 (S/AC.26/Dec.116 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the seventeenth instalment of "E3" claims (S/AC.26/2001/2) with regard to one Turkish company. The response of the Executive Secretary to the request filed by the Government of Turkey has not yet been conveyed to the claimant country due to the fact that the secretariat's review of the specific claim in question and, where appropriate, consultations with the respective panel of Commissioners, remain ongoing. Details concerning this request, and the Executive Secretary's recommendations to the Governing Council with respect thereto, will be contained in the Executive Secretary's upcoming article 41 reports to the Governing Council.

Annex I

RECOMMENDED CORRECTIONS CONCERNING CATEGORY "A" CLAIMS

1. Based on the recommended corrections reported in paragraphs 3-13 of this report, supra, the category "A" claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. First instalment category "A" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Pakistan	12,083,000.00	12,081,500.00	(1,500.00)

Table 2. Second instalment category "A" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Belgium	14,500.00	17,000.00	2,500.00
Pakistan	19,499,500.00	19,498,000.00	1,500.00

Table 3. Fourth instalment category "A" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
India	146,245,000.00	146,242,500.00	(2,500.00)

Table 4. Fifth instalment category "A" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Sri Lanka	69,710,500.00	69,706,500.00	(4,000.00)

Table 5. Sixth instalment category "A" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Australia	64,500.00	67,000.00	2,500.00
China	408,000.00	588,000.00	180,000.00
Norway	0.00	5,000.00	5,000.00
Pakistan	46,239,500.00	46,242,000.00	2,500.00
Philippines	60,718,500.00	60,713,500.00	(5,000.00)

Table 6 Special instalment category "A" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Pakistan	2,550,500.00	2,514,500.00	(36,000.00)

2. Based on the above corrections, the revised category "A" claim total recommended awards by instalment are as follows:

Table 7. Recommended corrected total awards for category "A" claims

Instalment	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
First	189,584,500.00	189,583,000.00	(1,500.00)
Second	641,208,500.00	641,209,500.00	1,000.00
Fourth	732,564,500.00	732,562,000.00	(2,500.00)
Fifth	782,592,500.00	782,588,500.00	(4,000.00)
Sixth	315,437,000.00	315,622,000.00	185,000
Special (Pakistan)	2,550,500.00	2,514,500.00	(36,000.00)

Annex II

RECOMMENDED CORRECTIONS CONCERNING CATEGORY "C" CLAIMS

1. Based on the recommended corrections reported in paragraphs 15 to 26 of this report, supra, the category "C" claims aggregate corrected awards by instalment, per country or international organizations, are as follows:

Table 1. Second instalment category "C" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
India	70,386,164.01	70,397,095.71	10,931.70
Lebanon	26,657,794.75	26,696,808.59	39,013.84
UNHCR Geneva	40,094.41	54,817.41	14,723.00

Table 2. Third instalment category "C" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Egypt	116,476,556.15	116,453,150.51	(23,405.64)
UNRWA Gaza	8,598.62	32,004.26	23,405.64

Table 3. Fourth instalment category "C" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Egypt	124,933,836.21	124,904,083.93	(29,752.28)
Kuwait	418,485,571.52	418,574,325.85	88,754.33
United Kingdom	13,262,664.13	13,267,664.13	5,000.00
UNRWA Gaza	9,204.15	38,956.43	29,752.28

Table 4. Fifth instalment category "C" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Philippines	7,866,442.32	7,866,781.83	339.51

Table 5. Sixth instalment category "C" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Croatia	186,185.48	199,058.34	12,872.86
Egypt	97,707,560.65	97,730,095.01	22,534.36
India	104,972,916.39	104,983,786.54	10,870.15
Kuwait	45,917,987.69	45,919,687.69	1,700.00
Pakistan	37,397,445.24	37,441,705.29	44,260.05
Philippines	10,807,599.11	10,860,589.19	52,990.08

Table 6. Seventh instalment category "C" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Jordan	283,065,883.77	283,073,150.21	7,266.44
Kuwait	788,898,228.35	788,906,796.16	8,567.81
Netherlands	832,385.72	841,343.82	8,958.10
Norway	22,465.73	50,717.14	28,251.41
Pakistan	74,616,436.77	74,663,860.17	47,423.40
Philippines	10,360,368.51	10,366,264.31	5,895.80
Poland	751,135.33	769,135.33	18,000.00
UNDP Washington	1,131,649.87	1,162,271.36	30,621.49
UNRWA Gaza	6,767,301.03	6,781,489.61	14,188.58

2. Based on the above corrections, the revised category "C" claim total awards by instalment are as follows:

Table 7. Recommended corrected total awards for category "C" claims

Instalment	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Second	431,980,551.63	432,045,220.17	64,668.54

Instalment	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Fourth	654,807,828.40	654,901,582.73	93,754.33
Fifth	736,113,925.45	736,114,264.96	339.51
Sixth	768,369,692.77	768,494,920.07	125,227.30
Seventh	1,934,485,108.68	1,934,654,281.71	169,173.03